

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 23, 2004

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC-2003-00103

Ex Parte: In the matter of
establishing rules governing
the provision of enhanced 911
service by local exchange carriers

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COMMENT CONTINUED

ORDER ADOPTING RULES

On August 1, 2003, the State Corporation Commission ("Commission") entered an Order for Notice and Comment or Requests for Hearing ("Order") docketing Case No. PUC-2003-00103 and providing the opportunity for comments or requests for hearing regarding proposed "Rules Governing Enhanced 911 Service" ("Proposed Rules") that seek to govern the provision of Enhanced 911 ("E-911") service by local exchange carriers. In addition, the Commission requested comments from interested parties on the following questions: (1) what are the relevant and necessary components that constitute intrastate regulated E-911 service as they are currently provisioned; (2) how should localities be precluded from being assessed duplicate charges for intrastate regulated E-911 services; and (3) for purposes of Public Service Answering Point ("PSAP") billing, how should E-911 accessible lines be counted (i.e., thousand blocks, hundred blocks, or other) and by whom? The purpose of these rules, proposed by the Staff of the Commission ("Staff"), is to establish a framework that provides reliable E-911 service to the citizens of Virginia and encourages accountability in the provision of such services.

Comments or requests for hearing were to be filed by September 26, 2003. On September 24, 2003, the Commission entered an Order Extending Time for Comment or Requests for Hearing. The new deadline was set for October 10, 2003. Comments were

received from the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel"); AT&T Communications of Virginia, LLC ("AT&T"); Cavalier Telephone, LLC ("Cavalier"); the City of Covington; the City of Virginia Beach; the County of Chesterfield; Fairfax County; Cox Virginia Telecom, Inc. ("Cox"); WorldCom, Inc. ("MCI"); NTELOS Inc. ("NTELOS"); Central Telephone Company of Virginia, United Telephone-Southeast, Inc., and Sprint Communications Company of Virginia, Inc. (collectively, "Sprint"); Verizon Virginia Inc. and Verizon South Inc. (collectively, "Verizon"); the Virginia Cable Telecommunications Association ("VCTA"); the Virginia Telecommunications Industry Association ("VTIA"); the Virginia Information Technologies Agency ("VITA"); and three private citizens. Comments were late-filed by York County.

NOW THE COMMISSION, having considered the Proposed Rules and the comments thereto, finds that we should adopt the rules appended to this Order as Attachment A, effective July 1, 2004.

The rules we adopt herein contain several modifications and clarifications to those rules originally proposed by the Staff and published in the Virginia Register of Regulations on August 25, 2003. These changes were made after our consideration of the comments by the interested parties to this proceeding and our analysis of how best to balance the interests of the general public, local governments, and service providers. We will not review each final rule in detail but will comment briefly on several of them.

Final 20 VAC 5-425-20 2 requires that a local exchange carrier ("LEC") provide access to LEC personnel to assist the relevant PSAP administrator in obtaining E-911 record-related information when processing an E-911 call. This rule is intended to facilitate communication between the LEC and PSAP when the pertinent automatic location identification ("ALI") record

does not provide sufficient detail to the PSAP to dispatch correctly emergency services during an actual emergency.

Final 20 VAC 5-425-20 4 follows the National Emergency Number Association standard for database error rates and differs from the proposed rule in that the failure to meet this standard is not handled on a reported exception basis but rather upon complaints received from a PSAP.

Final 20 VAC 5-425-20 5 differs from the proposed rule in that it requires all E-911 database affecting changes to be reported to the E-911 ALI database provider within 48 hours (excluding holidays and weekends) of the LEC's receipt of such notice instead of 24 hours. Cox commented that, because it contracts with a third party to update its E-911 database, 24 hours does not provide enough time to comply with the proposed rule.

Final 20 VAC 5-425-20 6 requires a LEC to correct any incorrect ALI record within 48 hours (excluding holidays and weekends) of receiving notification of a mistake. Although the City of Covington requested the ALI records be corrected in eight (8) hours, we believe that to be too onerous a requirement. Additionally, we believe that 48 hours is enough time to satisfy the concerns expressed by both Verizon and the VTIA. We take note of NTELOS' comment that it routinely corrects E-911 database errors within 24 hours, and we commend such prompt efforts.

We clarify 20 VAC 5-425-20 7 to reflect that telephone numbers that cannot convey automatic number identification ("ANI") shall be excluded from the E-911 ALI database.

Final 20 VAC 5-425-20 9 requires a LEC to inform end-user customers of the potential for problems reaching the appropriate PSAP that may be inherent with a particular service that a customer is seeking to purchase.

Proposed 20 VAC 5-425-20 11, as set forth in the Proposed Rules, would have required LECs to provide at least seven days of "warm" (or "soft") dial tone that would continue to make available E-911 service to customers during periods of temporary suspension of local telephone service for non-payment. Cox, Verizon, and the VTIA opposed the mandatory provision of warm dial tone; AT&T raised a number of cost and operational questions regarding the proposed rule; and NTELOS, while noting that it found the requirement reasonable, suggested that companies would need ample time to implement such a requirement. Because this rule may have unintended detrimental consequences to customers, we will dispense with the requirement in our Final Rules.

Final 20 VAC 5-425-20 11, as adopted, requires a LEC to provide, upon request and no more than once every six months at no charge, detail sufficient to allow a PSAP to verify the accuracy of its E-911 bill. This differs from the proposed rule in that it no longer requires the ALI database provider to share LEC access line information that may be confidential and proprietary.

Final 20 VAC 5-425-30 A requires that a competitive local exchange carrier's ("CLEC's") rates for E-911 services shall be no higher than the lowest rate of the largest incumbent local exchange carrier ("ILEC") serving in a particular PSAP's geographic area. This clarifies for a CLEC, when it charges for E-911 services, the relevant ILEC's rate that the CLEC cannot exceed.

Final 20 VAC 5-425-30 B requires a LEC to structure its E-911 service offerings so that the LEC charges a PSAP only for the services it renders to the PSAP. While this rule may seem to state the obvious, the Commission is aware of complaints from localities claiming that they have received bills from multiple LECs for the same E-911 services rendered. Should

compliance with this rule necessitate that an ILEC revise its tariffs, then we require that any tariff revisions be filed within 60 days of the effective date of these rules. Similarly affected CLECs shall file any necessary tariff revisions within 30 days of the effective date of the relevant ILEC's revised tariffs. However, should compliance with this rule *necessarily* result in (1) a change to a LEC's current regulatory classification of any component of E-911 services; (2) an increase in revenue to a LEC; or (3) an increase in any customer's rate, then the LEC shall take the appropriate action as provided for by the Code of Virginia, any applicable Alternative Regulatory Plan, and any other applicable rules and regulations. Such a LEC may request an extension of the 60-day deadline to accommodate a proceeding that results from the occurrence of any of the three conditions described above.

Accordingly, IT IS ORDERED THAT:

- (1) We hereby adopt the amended and final Rules Governing Enhanced 911 ("E-911") Service, appended hereto as Attachment A.
- (2) ILECs who currently have tariffed E-911 services shall, within sixty (60) days of the effective date of these rules, file any necessary E-911 service tariff revisions in accordance with 20 VAC 5-425-30 B, all other Commission rules and regulations, the Code of Virginia, and any applicable Alternative Regulatory Plan.
- (3) CLECs who currently have tariffed E-911 services shall, within thirty (30) days of the effective date of the relevant ILEC's new E-911 tariffs, file revised tariffs in accordance with 20 VAC 5-425-30 B, all other Commission rules and regulations, and the Code of Virginia.
- (4) A copy of this Order and the rules adopted herein shall be forwarded promptly for publication in the Virginia Register of Regulations.

(5) This case is dismissed, and the papers filed herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all local telephone carriers certificated in Virginia as shown on Appendix A attached hereto; all interexchange carriers certificated in Virginia as shown on Appendix B attached hereto; all PSAPs as shown on Appendix C attached hereto; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and the Division of Communications.

STATE CORPORATION COMMISSION
Division of Communications

Page 1 of 5

CHAPTER 425.

RULES GOVERNING ENHANCED 911 (E-911) SERVICE.

20 VAC 5-425-10. Definitions.

The words and terms in § 56-484.12 of the Code of Virginia shall have application to this chapter. In addition, the following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Automatic location identification (ALI)" means the feature by which the name, service address, and supplemental emergency service information associated with the calling party's telephone number are forwarded to the Public Safety Answering Point (PSAP) for automatic display on the PSAP terminal equipment.

"Automatic number identification (ANI)" means a feature by which the telephone number associated with a network access line is initially generated and forwarded to a PSAP for display on a 911 terminal.

"Average busy hour" means the one-hour period during the week statistically shown over time to be the hour in which the most telephone calls are received.

"Commission" means the Virginia State Corporation Commission.

"Competitive local exchange carrier (CLEC)" means an entity, other than a locality, authorized to provide local exchange telecommunications services in Virginia pursuant to § 56-265.4:4 of the Code of Virginia and 20 VAC 5-417-10 et seq.

"Database error" means an error in ALI address information caused by a Local Exchange Carrier (LEC) that affects the ability of a PSAP to route emergency services correctly.

"E-911 ALI database" means the set of ALI records residing on a computer system.

"E-911 services" means the tariffed services purchased by a jurisdiction for the purpose of processing wireline E-911 calls.

"Foreign central office service" means local exchange telecommunications service that is furnished from one central office to a location typically served by another central office.

"Foreign exchange service" means local exchange telecommunications service that is furnished from one exchange to a location typically served by another exchange.

"Incumbent local exchange carrier (ILEC)" or "incumbent" means a public service company providing local exchange telecommunications services in Virginia on December 31, 1995, pursuant to a certificate of public convenience and necessity, or the successors to any such company.

"Local exchange carrier (LEC)" means a certificated provider of local exchange telecommunications services, whether an incumbent or a new entrant.

"Local exchange telecommunications services" means local exchange telephone services as defined by § 56-1 of the Code of Virginia.

"Locality" means a city, town, or county that operates an electric distribution system in Virginia.

"Municipal local exchange carrier (MLEC)" means a locality certificated to provide local exchange telecommunications services pursuant to § 56-265.4:4 of the Code of Virginia.

"Network access line (NAL)" means a wireline line, trunk, or equivalent.

"New entrant" means a CLEC or an MLEC.

"P.01 grade of service" means a standard of service quality reflecting the probability that no more than one call out of 100 during the average busy hour will be blocked.

"Public safety answering point (PSAP)" means a facility equipped and staffed to receive and process 911 calls and route them to emergency services personnel.

"Staff" means the commission's Division of Communications and associated personnel.

20 VAC 5-425-20. General provisions.

A LEC shall:

1. Provide to its end-user customers access to E-911 service on all NALs where applicable;
2. Provide each relevant PSAP with a means for immediate access to LEC personnel to assist PSAPs, while processing an emergency-related 911 call, in obtaining E-911 record-related information on a 24-hour basis, 365 days a year. Any changes to this contact information shall be communicated in writing to affected PSAPs within five business days;
3. Provide LEC company identification codes on each ALI record submitted to the E-911 ALI database provider;
4. Provide ALI record information such that its E-911 database error rate, for a given PSAP, is no greater than 1.0%. The ALI database error rate shall be the number of a LEC's incorrect ALI address records divided by the total number of a LEC's ALI records queried during a calendar quarter;

5. Submit, or cause to be submitted, no less than 95% of all E-911 ALI database affecting changes (including nonpublished and nonlisted telephone numbers) to the E-911 ALI database provider within 48 hours of the LEC's receipt of notice of the change and 100% within 72 hours, excluding holidays and weekends;

6. Correct, or cause to be corrected, any ALI record within 48 hours of receiving written notification, including but not limited to electronic mail ("e-mail") and facsimile, excluding holidays and weekends;

7. Exclude, or cause to be excluded, from the ALI database, ALI records that contain telephone numbers which cannot convey ANI;

8. Provide ALI record information relating to an E-911 emergency immediately upon the verbal request of a verified authorized agent of the PSAP;

9. Advise customers applying for foreign exchange, foreign central office service, or any other wireline service, when there is the potential for problems in reaching the appropriate PSAP;

10. Render to a requesting PSAP, where the LEC provides ALI database services, detail sufficient to verify the accuracy of ALI database telephone number, name, and address information. Such information shall be provided to the PSAP by the LEC on no more than a semi-annual basis and at a reasonable cost;

11. Render to a PSAP, upon request, on no more than a semi-annual basis, at no charge, detail sufficient to verify the accuracy of its E-911 services billing; and

12. Notify each relevant PSAP at least 30 days prior to the commencement or discontinuance of local exchange telecommunications services.

20 VAC 5-425-30. Rates and tariffs.

A. A new entrant's rates for any E-911 services shall be no higher than the lowest applicable rates established by the largest ILEC, as measured by the number of its NALs, serving the geographic area of the relevant PSAP.

B. A LEC, if it provides and charges for E-911 services, shall structure its E-911 services so that it charges PSAPs only for those services that it renders.

20 VAC 5-425-40. Provisioning.

A LEC providing E-911 services shall:

1. Design, construct, maintain, and operate its facilities to minimize interruptions to E-911 services;

2. Determine E-911 service requirements in consultation with the relevant PSAP. These requirements shall be communicated to the PSAP prior to implementation and shall include detail sufficient to allow the PSAP to order E-911 service consistent with a minimum of a P.01 grade of service; and

3. Provide E-911 service consistent with the level of service ordered by a PSAP.

20 VAC 5-425-50. Waiver.

The commission may, at its discretion, waive or grant exceptions to any provision of this chapter.